

**PLACER COUNTY SUPERIOR COURT
CIVIL LAW AND MOTION TENTATIVE RULINGS
FRIDAY, DECEMBER 10, 2021**

These are the tentative rulings for civil law and motion matters set at **1:00 p.m. on Friday, December 10, 2021**. The tentative ruling will be the court's final ruling unless notice of appearance and request for oral argument are given to all parties and the court by **4:00 p.m., Thursday, December 9, 2021**. Notice of request for oral argument to the court must be made by calling **(530) 584-3463**. Requests for oral argument made by any other method will not be accepted. Prevailing parties are required to submit orders after hearing to the court within 10 court days of the scheduled hearing date, and after approval as to form by opposing counsel. Court reporters are not provided by the court. Parties may provide a court reporter at their own expense.

Except as otherwise noted, these tentative rulings are issued by **COMMISSIONER JOHN ROSS** and if oral argument is requested, it will be heard in **Department 14**, located at 2501 N. Lake Boulevard, Tahoe City, CA 96145.

1. T-CV-0002360 Paul Tovbin & Zhanna Vishnevskaya v. Olga Sanchez

Demurrer to Complaint

Defendant demurs to plaintiffs' complaint for unlawful detainer. A party may demur where the pleading does not state facts sufficient to constitute a cause of action. Code Civ. Proc. § 430.10(e). A demurrer tests the legal sufficiency of the pleadings, not the truth of the allegations or the accuracy of the described conduct. *Bader v. Anderson* (2009) 179 Cal.App.4th 775, 787. The allegations in the pleadings are deemed true no matter how improbable they may seem. *Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604.

Defendant argues that the 60-day notice attached to the complaint fails to comply with the California Tenant Protection Act of 2019 ("TPA"). Defendant is correct that the 60-day notice fails to comply with the requirements of Civil Code section 1946.2, which contrary to plaintiffs' arguments was in effect as of January 1, 2020. (See A.B. 1482.) The statute was later amended by A.B. 3088 (effective August 31, 2020), and then S.B. 1371 (effective January 1, 2021).

Plaintiffs assert that the effectiveness of the 60-day notice is irrelevant because defendant is alleged to be a trespasser at the property, following expiration of the parties' lease agreement. As to the alleged legal conclusion that defendant is a trespasser, the factual allegations of the complaint are vague. Plaintiffs allege a lease agreement which was effective through August 14, 2020. (Complaint, ¶ 7.) Plaintiffs allege that following expiration of the lease agreement, defendant continued in possession of the subject property. (Id., ¶ 9.) Plaintiffs also allege that "[d]efendants remain in possession of the

Subject Property to this day, without Plaintiff's permission or consent." (Id.) It is unclear at what point in time plaintiffs did not consent to defendant's possession of the premises. Adding to the uncertainty, the 60-day notice attached to the complaint states: "your month-to-month tenancy of the above-described premises is hereby terminated as of the date 11/09/2021". (Id., Exh. 1.) Additionally, the complaint does not comply with the requirements of Code of Civil Procedure section 1166(d)(1)(B), as no copy of the lease agreement is attached, and plaintiffs do not allege an exception to the requirement under Code of Civil Procedure section 1166(d)(1)(B)(i)-(iii).

Based on the foregoing, the demurrer is sustained with leave to amend. Plaintiffs shall file and serve any amended complaint on or before December 17, 2021.
